

IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF TENNESSEE
WESTERN DIVISION

FILED BY eg D.C.
05 AUG 19 PM 4:37

THOMAS M. GOULD
CLERK, U.S. DISTRICT COURT
W.D. OF TN, MEMPHIS

GREGORY BRAY,

Plaintiff,

vs.

TONY COOPER, et al.,

Defendants.

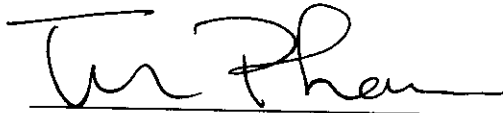
Civ. No. 04-2626-Ma/P

ORDER AMENDING AUGUST 12, 2005 ORDER GRANTING IN PART DEFENDANTS'
MOTION FOR AN ORDER REQUIRING THE MEDICAL PROVIDERS OF THE
PLAINTIFF TO RELEASE THE PLAINTIFF'S MEDICAL RECORDS

On August 12, 2005, the court entered an order granting in part the defendants' motion for an order requiring the medical providers of the plaintiff to release the plaintiff's medical records. On August 16, 2005, defendants filed objections to this order with the district judge. On August 19, 2005, the undersigned held a telephonic conference with the parties. Present on the telephone were plaintiff, Gregory Bray, and Stephen G. Smith, counsel for defendants. The undersigned concludes that, after further consideration of the December 30, 2004 Order of Partial Dismissal, the plaintiff's injury claims that are still at issue in this lawsuit are much broader than the injury claims identified in

the court's August 12, 2005 order. By alleging these broader injury claims, plaintiff has placed his medical history directly at issue. Therefore, the court sua sponte amends its August 12 order and hereby grants, in whole, defendants' motion. A court order authorizing the release of plaintiff's medical records is attached hereto.

IT IS SO ORDERED.

A handwritten signature in black ink, appearing to read 'Tu M. Pham', written over a horizontal line.

TU M. PHAM
United States Magistrate Judge

August 19, 2005
Date

IN THE UNITED STATES DISTRICT COURT FOR THE
WESTERN DISTRICT OF TENNESSEE AT MEMPHIS

GREGORY BRAY,

Plaintiff,

v.

No. 04-2626-Ma/P
JURY DEMANDED

TONY COOPER, et al.,

Defendants.

~~PROPOSED~~ COURT ORDER FOR THE MEDICAL RECORDS OF GREGORY BRAY

WHEREAS on or about May 11, 2005, defendants Cooper, Stipanuk and Reece moved this Court for an order permitting the medical records of the plaintiff to be obtained from the plaintiff's providers pursuant to court order. Based upon the motion and memorandum of these defendants, the Court finds the motion of these defendants to be well taken.

IT IS THEREFORE ORDERED, ADJUDGED AND DECREED that any physician, psychiatrist, psychologist, other mental health professional, other health care professional, or nurse who has attended or treated Gregory Bray, any hospital or other health care facility at which Gregory Bray has been examined, treated or confined, or any pharmacy at which he has obtained prescription drugs is authorized to furnish to counsel for each of the parties, without further order of this Court and without the necessity of the presentation of an authorization signed by plaintiff, a formal discovery request, service of a subpoena, or the taking of a medical records custodian deposition, any and all information, including all "protected health information" as that term is defined in the Health Insurance Portability and Accountability Act of

EXHIBIT

1

1996 ("HIPAA"), in any form or medium that may be requested regarding Gregory Bray's physical condition and treatment rendered therefore, and to allow such counsel, the parties, or any physician appointed by them to examine and obtain copies of any x-ray pictures taken of Gregory Bray or records regarding Gregory Bray physical condition or treatment. This order and the information as such term is used herein specifically includes all medical records, billing records, insurance claim forms, photographs and correspondence related to any treatment, diagnosis or participation in alcohol or drug abuse or mental health programs and all medical records, billing records, insurance claim forms, photographs and correspondence of a physical, psychological or psychiatric nature. The authorization as ordered by this Court shall not expire and shall remain effective until otherwise ordered by this Court or until the final resolution of this matter in this Court, whichever shall come first.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that the information obtained by counsel for any of the parties pursuant to this order may be freely exchanged among counsel for the parties without further action by this Court or the need for any formal or informal discovery request.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that plaintiff is entitled to receive a copy of all records obtained by defense counsel by use of this Order upon the request of plaintiffs and upon the payment of reasonable copying costs. Further, plaintiff will be notified of any request for information pursuant to this Order by the requesting defense counsel at the time of the request. Further, counsel for the defendants are entitled to receive a copy of all records obtained by plaintiff by use of this Order upon the request of counsel for the defendants and upon payment of reasonable and customary copying costs.

IT IS FURTHER ORDERED, ADJUDGED AND DECREED that all information obtained by counsel for defendants pursuant to this Order may be made available for examination by defendants, consulting and retained experts, employees of counsel for defendants and other agents acting on behalf of counsel for defendants in furtherance of the defense of this matter.

IT IS SO ORDERED.


JUDGE

DATE: August 19, 2005



Notice of Distribution

This notice confirms a copy of the document docketed as number 68 in case 2:04-CV-02626 was distributed by fax, mail, or direct printing on August 24, 2005 to the parties listed.

Gregory Bray
Northwest Correctional Complex
128878
960 State Route 212
Tiptonville, TN 38079

Stephen G. Smith
THE HARDISON LAW FIRM
119 S. Main St.
Ste. 300
Memphis, TN 38103

Jerry O. Potter
THE HARDISON LAW FIRM
119 S. Main St.
Ste. 300
Memphis, TN 38103

Debra L. Fessenden
SHELBY COUNTY ATTORNEY'S OFFICE
160 N. Main Street
Ste. 660
Memphis, TN 38103

Honorable Samuel Mays
US DISTRICT COURT